

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
	)	15-CR-10046-LTS(s)
v.	)	
	)	
(1) MARTIN LUSTGARTEN-ACHERMAN,	)	
	)	
Defendant.	)	

**GOVERNMENT’S STATUS REPORT**

The United States of America, by and through United States Attorney Carmen M. Ortiz and Assistant United States Attorneys Katherine Ferguson and Linda M. Ricci, and by and through Trial Attorney Joseph Palazzo, hereby files this status report as required by this Court’s Order on Discovery Motions issued on September 8, 2015 (Docket No. 137). The Government states as follows:

As ordered by the Court, in connection with defendant Martin Lustgarten’s motion to compel the production of exculpatory evidence, the government has undertaken to confirm with U.S. Attorney’s Office in the Southern District of Florida that all exculpatory material gathered in that office’s investigation of Martin Lustgarten-Acherman or Salomon Bendayan (the “Miami Investigation”) has been produced. Because the Assistant U.S. Attorney responsible for the Miami Investigation (the “Miami AUSA”) has been out of the office for a significant portion of the intervening period, the United States requests an additional fourteen (14) days – until October 7, 2015 -- to do so.

In particular, shortly after the motions hearing conducted by this Court on September 8, 2015, the undersigned prosecutors communicated with the Miami AUSA by both telephone and e-mail to relate the substance of this Court’s Order and to seek assistance in identifying any

additional exculpatory information. On September 8, 2015, following the conclusion of the hearing before this Honorable Court, the undersigned prosecutors participated in an initial telephone call with the Miami AUSA. On September 9, 2015, the undersigned prosecutors sent an e-mail to the Miami AUSA with a detailed explanation of the applicable Local Rules and requesting assistance in making the necessary confirmation. Shortly thereafter, the government also sent the Miami AUSA a copy of the Court's Order. Based on telephonic communications with the Miami AUSA during this period, the undersigned prosecutors understand that the Miami AUSA planned to travel abroad shortly thereafter on official business unrelated to the instant matter with little or no access to e-mail and telephonic communications. On September 22, 2015, the government left messages for the Miami AUSA to follow up on these earlier requests, but, based on an automated "out of office" message, learned that the Miami AUSA is expected to return on September 23, 2015. In light of the absence of the Miami AUSA during this period, the government request an additional fourteen (14) days, until October 7, 2015, to file a supplemental status report concerning its efforts to confirm the status of any additional exculpatory information. Because the Miami Investigation was conducted independently from the investigation based out of this district, the undersigned prosecutors require the assistance of the Miami AUSA to respond to the Court's Order.

Respectfully submitted,

CARMEN M. ORTIZ  
United States Attorney

By: /s/ Linda M. Ricci  
KATHERINE FERGUSON  
LINDA M. RICCI  
Assistant U.S. Attorneys  
One Courthouse Way, Ste. 9200  
Boston, MA 02210  
Tel: (617) 748-3100

M. KENDALL DAY  
CHIEF, ASSET FORFEITURE AND  
MONEY LAUNDERING SECTION

By: /s/ Joseph Palazzo  
Joseph Palazzo  
Trial Attorney  
U.S. Department of Justice, Criminal Division  
1400 New York Avenue NW  
Washington, DC 20005  
Tel: (202) 445-7910

Date: September 23, 2015

**CERTIFICATE OF SERVICE**

I, Linda M. Ricci, Assistant United States Attorney, do hereby certify that this document, filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Linda M. Ricci  
Linda M. Ricci  
Assistant U.S. Attorney

Dated: September 23, 2015